

(1) Potatoes treated with a copper salt of butyric amino acid at the end of the tuberisation phase result in increased yield, while the use of the same salt at other phases during the growth of the potato plant does not result in increased yield, see Tables A-C and Paragraph 8; and

(2) Potatoes treated with a copper salt of caprylic amino acid do not result in the increased yield obtained by use of the copper salt of butyric amino acid, see Table D and Paragraph 9.

This demonstrates the surprising and unexpected results of using a copper salt of butyric amino acid at the end of the tuberisation phase to increase the yield of potatoes.

The prior art DeMil '151 patent neither teaches nor suggests treatment of potatoes after the tuberisation phase with a copper salt of butyric amino acid to increase yield, and applicants have shown the criticality of the use of copper salt of butyric amino acid. It is therefore respectfully submitted that claim 17 is clearly patentable over DeMil '151.

For grapes, the test results presented in the De Mil Declaration show that:

(1) Copper salts of caprylic amino acid increase sugar content of the grape while decreasing the weight of the grape berries, see Table E and Paragraph 11; and

(2) Grapes treated with a copper salt of butyric amino acid did not result in increased sugar content compared to grapes treated with a copper salt of caprylic amino acid, see Table F and Paragraph 13.

From these results, the criticality of the use of a copper salt of caprylic amino acid to increase the sugar content of grapes

can be seen. Since DeMil '151 has nothing to teach or suggest such a novel process, it is respectfully submitted that claim 16 is patentable over the prior art.

For beets, the tests results in the De Mil Declaration demonstrate that:

- (1) the use of a copper salt of caprylic amino acid results in increased sugar content of the beets, see Table G and Paragraph 15; and
- (2) the use of a copper salt of butyric amino acid decreased the sugar content while increasing yield, see Table H and Paragraph 16.

From these results, it can be seen that it is critical to use a copper salt of caprylic amino acid to obtain increased sugar content in a beet. This is neither taught nor suggested by DeMil '151 and it is therefore respectfully submitted that claim 15 is patentable over the prior art.

In view of the surprising and unexpected results set forth in the Declaration, it is respectfully submitted that applicants have proven the superiority of their claimed methods and reconsideration and allowance of the application are respectfully requested.

**DEPOSIT ACCOUNT**

Authorization is given to charge any fee due or credit for over-payment to our Deposit Account No. 05-1675  
A duplicate copy of this page is enclosed. This general authorization excludes charging the issue fee concurrently with issuance of the Notice of Allowance.

DCL:dlr

Tel: (212) 682-4980  
Fax: (212) 573-6127

Respectfully submitted,

LUCAS & JUST

By Donald C. Lucas  
Donald C. Lucas  
Registration No. 31,275